

PTO/SB/08a/b (07-05)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Substitute for form 1449A/B/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(Use as many sheets as necessary)</i>		Complete if Known			
		Application Number	10/525,767		
		Filing Date	February 28, 2005		
		First Named Inventor	Franz-Josef Dietzen		
		Art Unit	N/A		
Examiner Name	Not Yet Assigned				
Sheet	1	of	1	Attorney Docket Number	12810-00034-US

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Document Number Number-Kind Code ² (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear

FOREIGN PATENT DOCUMENTS						
Examiner Initials*	Cite No. ¹	Foreign Patent Document Country Code ³ -Number ⁴ -Kind Code ⁵ (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
	BA	WO-98/51735-A1	11-18-1998	BASF AKTIENGESELLSCHAFT		

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹ Applicant's unique citation designation number (optional). ² See Kinda Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 809. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached.

Examiner Signature		Date Considered	
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AUG 25 2005

Docket No.: 12810-00034-US
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Franz-Josef Dietzen et al.

Application No.: 10/525,767

Confirmation No.: Not Yet Assigned

Filed: February 28, 2005

Art Unit: N/A

For: PRODUCTION OF POLYSTYRENE FOAM
BEADS WITH LOW BULK DENSITY

Examiner: Not Yet Assigned

INFORMATION DISCLOSURE STATEMENT (IDS)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 37 CFR 1.56, 1.97 and 1.98, the attention of the Patent and Trademark Office is hereby directed to the references listed on the attached PTO/SB/08. It is respectfully requested that the information be expressly considered during the prosecution of this application, and that the references be made of record therein and appear among the "References Cited" on any patent to issue therefrom.

This Information Disclosure Statement is filed before the mailing date of a first Office Action on the merits as far as is known to the undersigned (37 CFR 1.97(b)(3)).

Applicant has not submitted copies of each cited U.S. patent and U.S. patent application as required by 37 CFR 1.98(a)(2)(i), amended October 2004, as the U.S. Patent and Trademark Office has waived this requirement for all U.S. patent applications. Applicant submits herewith copies of foreign and non-patents in accordance with 37 CFR 1.98(a)(2).

Application No.: 10/525,767

Docket No.: 12810-00034-US

A concise explanation of relevance of the items listed on form PTO/SB/08 is in the form of an International Preliminary Examination Report from a foreign patent office, issued in a counterpart application, which refers to the relevant portions of the reference.

In accordance with 37 CFR 1.97(g), the filing of this Information Disclosure Statement shall not be construed to mean that a search has been made or that no other material information as defined in 37 CFR 1.56(a) exists. In accordance with 37 CFR 1.97(b), the filing of this Information Disclosure statement shall not be construed to be an admission that any patent, publication or other information referred to therein is "prior art" for this invention unless specifically designated as such.

It is submitted that the Information Disclosure Statement is in compliance with 37 CFR 1.98 and the Examiner is respectfully requested to consider the listed references.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 03-2775, under Order No. 12810-00034-US.

Dated: 8-24-05

Respectfully submitted,

By 

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From the INTERNATIONAL BUREAU

PCT

Patents, Marken u. Erfindungen

25. April 2005

NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY
EXAMINATION REPORT
(PCT Rule 72.2)

To:
BASF AKTIENGESELLSCHAFT
67056 Ludwigshafen
ALLEMAGNE

AST

Date of mailing (day/month/year)
21 April 2005 (21.04.2005)

Applicant's or agent's file reference
0000053903

International application No.
PCT/EP2003/009521

International filing date (day/month/year)
28 August 2003 (28.08.2003)

IMPORTANT NOTIFICATION

Applicant

BASF AKTIENGESELLSCHAFT et al

EL- Phas been dit 28.02.05

1. Transmittal of the translation to the applicant.

The International Bureau transmits herewith a copy of the English translation made by the International Bureau of the international preliminary examination report established by the International Preliminary Examining Authority.

2. Transmittal of the copy of the translation to the elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following elected Offices requiring such translation:

AZ, CA, CH, CN, CO, GH, KG, KP, KR, MK, MZ, RU, TM

The following elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, BA, BB, BG, BR, BY, BZ, CR, CU, CZ, DE, DK, DM, DZ, EA, EC, EE, EP, ES, FI, GB, GD, GE, GM, HR, HU, ID, IL, IN, IS, JP, KE, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MN, MW, MX, NI, NO, NZ, OA, OM, PG, PH, PL, PT, RO, SC, SD, SE, SG, SK, SL, SY, TJ, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report.

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Authorized officer

Ellen Moyse

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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 0000053903	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/009521	International filing date (day/month/year) 28 August 2003 (28.08.2003)	Priority date (day/month/year) 04 September 2002 (04.09.2002)
International Patent Classification (IPC) or national classification and IPC C08J 9/12		
Applicant BASF AKTIENGESELLSCHAFT		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 4 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of _____ sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 21 January 2004 (21.01.2004)	Date of completion of this report 11 January 2005 (11.01.2005)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

Form PCT/IPEA/409 (cover sheet) (July 1998)

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/009521

I. Basis of the report

1. With regard to the elements of the international application:*

- ☐ the international application as originally filed
- ☒ the description: _____, as originally filed
 pages _____ 1-6
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☒ the claims: _____, as originally filed
 pages _____ 1-10
 pages _____, as amended (together with any statement under Article 19
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☐ the drawings: _____, as originally filed
 pages _____
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description: _____, as originally filed
 pages _____
 pages _____, filed with the demand
 pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.
 These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig. _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/EP 03/09521

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-10	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	1-10	NO
Industrial applicability (IA)	Claims	1-10	YES
	Claims		NO

2. Citations and explanations

Novelty and inventive step: EP-A-0 915 127 (D2) describes the extrusion of a polystyrene melt containing 2% graphite, to which a propellant mixture consisting of n-pentane and i-pentane is added. The homogenised mixture is pressed through a perforated plate at approximately 180°C and fed in a conventional manner to the cooling water of an underwater granulator, i.e. fed to a cooling stage that takes place under reduced pressure (atmospheric pressure) before being granulated by means of a rotating blade to form foamed particles (see paragraph [0044]). A comparable procedure is also disclosed in WO98/51735 (D3).

The distinguishing feature in relation to the prior art in D2 or D3 is the propellant, which according to the application contains water and an adsorbent or solubiliser.

US-5 317 033 (D1) also describes the extrusion of a bimodal polystyrene foamed material, the extrudate being extruded under reduced pressure and the propellant mixture added thereto containing water or a mixture of water and alcohol. In addition, an

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/EP 03/09521

adsorbent and a cell controlling agent are added to the melt (column 4, line 48 to column 5, line 55). In D1, 0.05 to 2 parts relative to the mixture of a water-adsorbing synthetic polymer is used as adsorbent and 0.01 to 5 parts talcum or calcium carbonate is used as cell controlling agent. According to example 1, the polystyrene melt and the additives (adsorbent and cell controlling agent) are kneaded in the extruder at 200°C and the aqueous propellant mixture is forced into the mass, which is then cooled to 110°C. The mass is then extruded under atmospheric pressure through a 2 mm slit, resulting in plates of 40 to 60 mm (thick) by foaming. This procedure is analogous to that of the present application, the only difference being that plates, not granules, are produced.

The underwater granulation, however, is known from D2 and D3 and therefore the subject matter of the claimed method must be considered obvious from the combination of documents D2 and D1 or D3 and D1. Consequently, claims 1 to 10 cannot be considered to involve an inventive step (PCT Article 33(3)).